IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2563 OF 2005

IN

CRIMINAL APPEAL NO.423 OF 2005

Kumud Narsingh Panigrahi ... Applicant

V/s

The State of Maharashtra ... Respondent

Ms. Pooja Bhojane for applicant

Shri A.S. Shitole, APP for the respondent

Coram : V.M. Kanade, J.
Dated : 05/05/2005.

P.C. :-

1 I have heard the learned counsel for the applicant the learned APP for the State.

2 This is an application for condonation of delay of 5 years and 131 days in filing criminal appeal against the judgment and order dated 20/12/1999 passed by the Additional Session Judge in Session Case No. 3 of 1996.

3 It is stated in the application that after the trial court was convicted the applicant, he was sent to Yerwada Central Prison, Yerwada. It is further stated that

there is no other male member in the family except his father who is residing at his native place in Orissa. It is stated that the applicant neither had financial capacity nor had knowledge of legal procedure for the purpose of filing the appeal against the impugned judgment and order. The learned counsel appearing on behalf of the applicant has submitted that the applicant is illiterate and poor and due to lack of fund he took time in engaging the advocate and filing the appeal. In my view, the cause shown by the applicant in this application is sufficient cause. The applicant was convicted by the trial court for an offence punishable under section 452 read with section 34 and section 395 of the Indian Penal Code and was sentenced to suffer R.I. for 7 years and 10 years respectively. Considering the fact that the applicant has a substantive right to file the appeal challenging the judgment and order of the trial court, and he has shown sufficient cause for condoning the delay in filing appeal, the application for condonation of delay is allowed In my view, it is the duty of the jail authorities to ask the applicant whether he needs any assistance or legal aid for the purpose of filing the appeal. In future, the concerned jail authority shall make the accused aware of his legal right and give legal aid which is made available to him by the legal aid committee. With these observations, criminal application is allowed.

(V.M. Kanade, J.)